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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 JULIE SCHMIDT,

10 Plaintiff,

11 v.

12 CHILDREN'S PROTECTIVE SERVICES,

13 Defendant.

Case No. C09-5150FDB

ORDER DENYING LEAVE TO
PROCEED *IN FORMA PAUPERIS* and
DENYING COURT-APPOINTED
COUNSEL

14 Plaintiff has filed a complaint asserting violation of her civil and Constitutional rights in that
15 she asserts that her children were taken from her based on false reports that she abused and neglected
16 her children, when such was never charged or proved. In her addendum to her complaint, among
17 other things, she states that she has been told that she has a brain impairment so severe that she
18 cannot take care of herself or anyone else, but she has not been able to see the reports, and she also
19 names others who have told her that she could "parent" under certain conditions.

20 Plaintiff applies for Court-appointed counsel, but she identifies no efforts to retain an
21 attorney, and she states that no state or federal agency has officially determined that there is
22 reasonable cause to believe that the allegations in her complaint are true. Generally, there is no
23 constitutional right to counsel in a civil case. *United States v. 30.64 Acres of Land*, 795 F.2d 796,
24 801 (9th Cir. 1986). Pursuant to 28 U.S.C. § 1915(d), however, a court has discretion to request
25 volunteer counsel for indigent plaintiffs in exceptional circumstances. *Id.* ; *Wood v. Housewright* 900


1 F.2d 1332, 1335 (9th Cir. 1990). A court, however, may not make a mandatory appointment.
2 *Mallard v. U.S. Dist. Court of Iowa*, 490 U.S. 296, 301-08 (1989). In order to determine whether
3 exceptional circumstances exist, the court evaluates the plaintiff's likelihood of success on the merits
4 and the ability of the plaintiff to articulate his or her claim pro se in light of the complexity of the
5 legal issues involved. *Wood* at 1335-36; *Richards v. Harper*, 864 F.2d 85, 87 (9th Cir. 1988).

6 Having reviewed Plaintiff Schmidt's complaint, and all the material submitted therewith, the
7 Court cannot conclude that demonstrated either a likelihood of success on the merits or an inability
8 to articulate her claim. Accordingly, Plaintiff's application for Court-appointed counsel will be
9 denied.

10 Plaintiff also applies to proceed *in forma pauperis* and states only that she receives disability
11 compensation payments, and has since 1987, but she does not state the amount of payments that she
12 has received in the last twelve months as requested. Pursuant to 28 U.S.C. § 1915(a), a court may
13 authorize a plaintiff to prosecute an action in federal court without prepayment of fees or security if
14 the plaintiff submits an affidavit showing that he or she is unable to pay such fees or give security
15 therefor. Plaintiff Schmidt, however, has failed to submit a complete affidavit, such that the Court
16 may ascertain an inability to pay expenses required to proceed with this action. Plaintiff's application
17 for leave to proceed *in forma pauperis* will be denied.

18 NOW, THEREFORE, IT IS ORDERED: Plaintiff's Application for Leave To Proceed *In*
19 *Forma Pauperis* [Dkt. # 1] and Plaintiff's Application for Court-Appointed Counsel [Dkt. # 2] are
20 DENIED.

21 DATED this 30th day of March, 2009.

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23 FRANKLIN D. BURGESS
24 UNITED STATES DISTRICT JUDGE
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